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British Virgin Islands

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I. Background information

1. The British Virgin Islands[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located about 100 kilometres east of Puerto Rico and 25 kilometres from the United States Virgin Islands. The Territory comprises an area of 153 square kilometres, a group of some 50 islands, islets and cays that form an archipelago with the United States Virgin Islands, scattered over some 3,445 square kilometres of sea. Twenty of the islands are inhabited. The capital city, Road Town, is located on the largest island, Tortola. The other major islands are Virgin Gorda, Anegada and Jost Van Dyke. For 2007, the population of the Territory was estimated at 27,500 and for 2008 at 28,000 persons.[2]

2. The earliest known inhabitants of the Territory were the Arawaks and the Caribs, indigenous people of the region. The Dutch established the first permanent European settlement on the islands in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

II. Constitutional, political and legal issues

3. In 2007, the British Virgin Islands adopted a new Constitution formulated with local input (see A/AC.109/2008/2). The Virgin Islands Constitution Order 2007 came into force on 15 June 2007, replacing the Virgin Islands Constitution Order 1976, which was amended in 2000. Under the new Constitution, the administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts; the Governor retains legislative powers as necessary to exercise special responsibilities. In the areas of internal security and external affairs, the new Constitution provides for the territorial Government to have formal input, allowing for greater sharing of those responsibilities.[2]

4. The new Constitution also provides for the introduction of a cabinet style of Government, reflecting, according to the administering Power, the increased level of autonomy and responsibility resting with the democratically elected representatives. The Executive Council has been replaced by a Cabinet, the Chief Minister replaced with a Premier, and the Legislative Council replaced by a House of Assembly. The Cabinet consists of the Premier (appointed by the Governor from among the elected members of the House of Assembly), four other Ministers (appointed by the Governor on the advice of the Premier) and one ex officio member (the Attorney General). The Governor attends and presides over the Cabinet. The agenda is agreed

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[2] Information provided by the administering Power on 13 January 2009.

by the Cabinet Steering Committee, consisting of the Governor, the Premier, the Cabinet Secretary and the Deputy Governor. The House of Assembly consists of a Speaker, the Attorney General as an ex officio member and 13 elected members (9 members from one-member electoral districts and 4 members representing the Territory at large).[2]

5. Speaking in an expert capacity at the Pacific Regional Seminar convened under the auspices of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Bandung, Indonesia from 14 to 16 May 2008, Kedrick Pickering, who was involved in the Territory's constitutional negotiations with the administering Power, presented an analysis of the internal constitutional review process that resulted in the adoption of the Territory's new Constitution in 2007. According to the speaker, the 2007 Constitution represented progress for the people of the British Virgin Islands, enshrining basic fundamental rights, rebalancing the relationship between the territorial Government and the administering Power, and giving the people of the Territory greater autonomy and self-determination. The full text of the statement can be found on the United Nations website on decolonization.

6. There are four political parties in the Territory: the Virgin Islands Party (VIP), founded in 1971; the United Party (UP), founded in 1966; the Concerned Citizens' Movement (CCM), founded in 1994 as a successor to the Independent People's Movement; and the National Democratic Party (NDP), founded in 1998. General elections must be held at least once every four years. Candidates are elected based on a simple majority.

7. Persons voting must be 18 years of age or over and have "belonger status". It is estimated that some 45 per cent of the population has "belonger status", which includes the right to work without a permit and the right to vote. In practice, a person has to live and reside continuously in the Territory for 20 years before he or she may apply for permanent residence. After obtaining permanent residence, he or she may apply to become a belonger.[3] The British Overseas Territories Act 2002 granted the right of full British citizenship to all inhabitants of its Territories. According to the media, in 2008 the territorial Government gave certificates of residence in the British Virgin Islands to 28 citizens of Montserrat. It was the first time that citizens of Montserrat had been given certificates of residence. In addition, the Government expressed its willingness to deal with the general backlog of applications for residency status.[4]

8. In the last general election, held on 20 August 2007, the Virgin Islands Party won 10 of the 13 seats in the House of Assembly and subsequently formed the Government, with Ralph T. O'Neal as Premier. The next general election is scheduled for September 2011.

9. The Governor of the British Virgin Islands, David Pearey, took office on 18 April 2006.

10. The law of the British Virgin Islands comprises common law of England, locally enacted legislation, and imperial legislation. Justice is administered by the Eastern Caribbean Supreme Court, based in Saint Lucia, which consists of two

[3] See http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaff/uc147-i/uc14702.htm.

[4] See www.caribbeannetnews.com.

divisions: the High Court of Justice and the Court of Appeal. There are two resident High Court Judges, and a visiting Court of Appeal, which comprises the Chief Justice and two judges of appeal and sits twice a year in the Territory. There is also a Magistrate's Court, which hears prescribed civil and criminal cases, as well as a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council is the final court of appeal. In the context of a review, the administering Power reaffirmed that the terms and conditions of employment of the Chief Justices were a matter for the Organization of Eastern Caribbean States, not the United Kingdom.[5]

11. A new Commercial Court is under construction, which is expected to be finished by May 2009. The Commercial Court will serve predominantly the Eastern Caribbean jurisdictions, including Anguilla, the British Virgin Islands and Montserrat.[6]

III. Budget

12. For 2008, estimated expenditure of the Territory was approximately $247 million, with an estimated revenue of about $285 million and an estimated surplus of $38 million.[7] The territorial Government continues to be the responsible steward of public sector finance, first by funding capital expenditures from operating surpluses, where feasible, and also by remaining in compliance with the borrowing guidelines agreed with the Government of the United Kingdom.[2]

13. In October 2008, the United Kingdom and the British Virgin Islands signed a new tax agreement, which involves arrangements for exchanging tax information and avoiding double taxation of individuals.[8]

IV. Economic conditions

A. General

14. The economy of the British Virgin Islands is largely based on offshore financial services, which contribute approximately half of the gross domestic product (GDP), and tourism. Since 1959, the legal tender of the British Virgin Islands has been the United States dollar ($).

15. For 2007, GDP was estimated at $1.1 billion, representing an estimated increase of 9.5 per cent over 2006. Per capita GDP was estimated at $41,500 for 2007.[7]

16. As previously reported, the principal trading partners of the Territory are the United States of America, Puerto Rico, States members of the Caribbean

[5] Seventh Report of the Foreign Affairs Committee, Session 2007-08, Overseas Territories: Response of the Secretary of State for Foreign and Commonwealth Affairs, September 2008, available from www.fco.gov.uk.

[6] See MENA News from Al-Bawaba via COMTEX News Network.

[7] See http://www.businessbvi.com, 2008 Budget Address.

[8] See http://www.fco.gov.uk; www.tax-news.com.

Community (CARICOM) and the United Kingdom. Imports consisted mostly of food, machinery and fuel.[2]

17. In remarks made in October 2008 about the unfolding global financial crisis, the Premier indicated that, the territorial Government was mindful of the potential impact, which could have a long-term effect on the economy of the Territory.[4] Meanwhile, the territorial Government was taking steps to assist residents in the light of the downturn and the instability of the international economy. For instance, measures were being taken to reduce the fuel surcharge for the use of electricity, and the use of alternative sources of energy was being promoted.[4]

B. Financial services

18. The financial services sector accounts for nearly 60 per cent of the GDP of the Territory.[4] Since its inception in 2002, the Financial Services Commission has been functioning as an autonomous regulatory authority responsible for the regulation, supervision and inspection of all financial services in and from within the British Virgin Islands (see A/AC.109/2008/2). The British Virgin Islands Business Companies Act of 2006 has helped position the British Virgin Islands as a leader in the registration of corporate structures worldwide. The Financial Services Commission, through the Registry of Corporate Affairs, continues to be one of the major revenue-generating engines in the Territory. The International Financial Centre falls under the Ministry of Finance and is the entity charged with marketing and promoting the financial services sector of the Territory. The Financial Investigation Agency, established in 2004, investigates financial crime.[4] There were 77,022 new companies registered in 2007.[9]

19. In 2008, the British Virgin Islands participated in the work of Treasury Select Committee Inquiry of the United Kingdom Parliament regarding offshore financial centres, related comparisons among territories and applicable international standards. The International Financial Centre indicated that the Territory was widely regarded as operating a robust supervisory regime in financial services and as having a well-established system of international cooperation recognized by international mechanisms such as the Financial Action Task Force and the International Monetary Fund. According to the National Audit Office of the United Kingdom, the British Virgin Islands has demonstrated that it is up to the task of maintaining a high quality of regulation as it grows and develops.[4]

20. In its report issued on 7 July 2008, the Foreign Affairs Committee, which visited the Territory in March 2008, recommended that the Foreign and Commonwealth Office encourage the British Virgin Islands and others to continue to make progress in improving financial regulation, in particular with regard to arrangements for the investigation of money-laundering cases.[10]

C. Tourism

21. Tourism continues to be one of the major economic pillars and the second highest revenue earner of the Territory.[4] According to the administering Power, in

[9] See http://www.bvifsc.vg, Financial Service Commission, Statistical Bulletin, 20 March 2008.

[10] See http://www.publications.parliament.uk/; www.imf.org.

2008, tourism accounted for 37 per cent of GDP and directly employed one in every three persons in the British Virgin Islands. In 2007, visitor arrivals topped off at 952,711. Estimates for arrivals from January to June 2008 for all categories stood at 604,915.[2] During 2008, the territorial Government worked to ensure that the tourism sector of the Territory would continue its leadership position as a diverse, upscale niche market destination, while maintaining environmental sustainability, social and cultural balance.[4]

22. As previously reported, various high-end tourist developments are under way, with a planned increase of over 1,000 hotel rooms over the next six years. At the same time, the Tourist Board of the British Virgin Islands continues its efforts towards improving standards with focused customer training programmes, as well as an initiative to improve basic physical standards of accommodation facilities.[2] In that context, in August 2008, a tourism strategic planning meeting was held as an "industry marketplace", allowing members of the industry to meet with field teams and managers to discuss the industry's needs and initiatives for the 2008-2009 season, and enabling the Tourist Board to brainstorm on action plans for the Territory.[11]

23. During 2008, the Territory joined the International Association of Athletics Federations. The territorial Government opened a multi-million-dollar sports facility that is expected to help pave the way for the British Virgin Islands to become a prime destination for sports tourism. In his 2008 budget address, the Premier indicated that the facility would be used for development of athletes of the Territory and the region. Moreover, the Premier stated that the territorial Government would focus on developing a tourism product that was in harmony with the environment. He underlined that social and cultural impact studies would be conducted before any type of major development was undertaken in the tourism sector.[7]

D. Agriculture, fisheries and shipping

24. Agriculture and fishing continue to account for less than 1 per cent of GDP, and most food requirements are met through imports. Around 800 hectares are under cultivation and 4,000 hectares in pasture. The main crops are fruit and vegetables, which are produced both for local consumption and for export to the United States Virgin Islands.[2]

25. The territorial Government's Department of Agriculture continues to focus on various initiatives, including the provision of subsidy grants to farmers, with special attention given to the pig industry. Other initiatives include improving livestock breeds and supporting the ongoing Farmers' Assistance Programme through which farmers are assisted with farming materials and the marketing of produce.[2] For instance, the 2008 budget supported the development of agriculture through financial and technical assistance to local farmers, including through greenhouse initiatives with private partners. That initiative has involved the use of cutting-edge technology to produce flowers, fruits and vegetables in quantities that are expected to reduce the Territory's dependence on foreign markets and improve its food security.[7]

[11] See www.bviplatinum.com.

26. The Territory's Fisheries Act of 1997 and Fisheries Regulations of 2003 govern fishing in the British Virgin Islands. Fishing mainly serves the local market. The two main types of fisheries in the Territory are small-scale commercial and recreational fisheries.

27. During 2008, the Territory's Fishing Complex programme got under way to help ensure that the people of the Territory were able to purchase local fish and other seafood year round. As part of the programme, the territorial Government reviews the fee schedule for produce at the Fishing Complex.[7]

E. Transport and communications

28. The British Virgin Islands has over 200 kilometres of surfaced roads. Direct shipping services operate from the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Netherlands. A deepwater harbour exists in Road Town. Regular ferry service links Tortola with some of the other islands and with St. Thomas of the United States Virgin Islands.[2]

29. According to the territorial Government, the seaports needed various improvements in 2008. In that regard, the British Virgin Islands Ports Authority plans to begin a major capital development programme that will include the ports at Virgin Gorda, West End and Port Purcell. In addition, the Authority plans to expand the cruise ship pier to accommodate larger vessels and to construct a much-needed tender dock on the north-east side of the pier. The tender dock is expected to reduce congestion in Road Town when ships are in port.[7]

30. There are three international airports in the British Virgin Islands, served by some 15 airlines.[2] In June 2008, the territorial Government signed a contract with a private company to extend and modernize the airport on Virgin Gorda Island. The same company was first engaged by the Territory from 1999 to 2003 to conduct a feasibility study regarding improving the Virgin Gorda aerodrome. The airport is being constructed according to international standards to improve Territory infrastructure.

31. Under a new motor vehicle policy, service vehicles for tours, shuttle buses and limousines will be officially registered. The policy is part of the territorial Government efforts in 2008 to provide safe, efficient and affordable transportation and infrastructure services to enhance community life and promote economic growth within the Territory.[4]

F. Construction planning, development and public works

32. Physical planning in the British Virgin Islands is governed by the Physical Planning Act of 2004, under which all development in the Territory requires approval from the Physical Planning Authority. During 2008, the Planning Authority served 80 compliance notices and had four cases go before the court. Moreover, 363 development, 102 subdivision and approximately 32 other applications were processed. The Territorial Plan, determining land use activities and identifying undeveloped areas, is expected to be revised and updated to cover the period 2008-2028.[2]

33. In November 2008, the territorial Government hosted a conference on sustainability and the national physical development plan on the occasion of World

Town Planning Day. On that occasion, the Premier described the Territorial Plan as a very important tool to guide the development of the British Virgin Islands, noting that under the Physical Planning Act, all development, whether public or private, had to be approved by the Planning Authority, including roads cut by private developers.[4]

34. The Water and Sewerage Department of the Territory has about 8,000 customers who are provided water from 10 active reservoirs and 8 desalination plants. The plants are owned by three private companies from which the Government buys the water.

35. The 2008 Speech from the Throne before the House of Assembly outlined the Territory's legislative programme for 2009, indicating that there would be new legislation as well as amendments to some existing legislation on aviation, electricity and telecommunications, in order to develop and strengthen critical infrastructure systems in the Territory.[4]

V. Social conditions

A. General

36. Financial assistance is provided for those who need it through the Social Security Board, a statutory body that falls under the Ministry of Finance (see A/AC.109/2008/2). It provides for sickness and maternity benefits, as well as pensions. The Social Development Department also provides grants and other assistance to persons who are in need of assistance through the Public Assistance Committee. This is a nine-member committee which is appointed by the Cabinet. Other programmes that are administered by the Social Development Department include services for the elderly, the disabled families and children, Rainbow children's home, Social and legal aid, and Community development.[2]

37. In 2008, the territorial Government decided to increase social security benefits, including for pensioners and new mothers, starting in January 2009. Based on recommendations emanating from the Ninth Actuarial Review of the Social Security Fund, benefits include a 50 per cent increase in funeral and maternity grants, a reduction in the qualifying period for invalidity and survivors' pensions, and a 25 per cent increase in minimum age pensions.[4]

38. According to the administering Power, the Territory's National Commission for the United Nations Educational, Scientific and Cultural Organization (UNESCO), a unit of the Ministry of Education, recently concluded a successful hands-on workshop, Youth PATH, which taught underprivileged, unemployed young persons between the ages of 18 and 25 some basic life skills, cultural and natural heritage preservation and how to avoid drugs and prevent HIV/AIDS.[2]

B. Labour

39. The labour force of approximately 17,800 workers (2007) is mostly engaged in Government employment, tourism and construction. According to the Government

Development Planning Unit, the unemployment rate in the British Virgin Islands was 3.6 per cent in 2007.[12]

40. According to the media, in 2008, the territorial Government's Ministry of Natural Resources and Labour issued guidelines governing work permit exemptions that are to be based on enrolment in the school system, marriage to a belonger for a period of not less than three years or residency in the Territory of Virgin Islands for 20 years or more by a person who has demonstrated good character.[4]

C. Education and sports

41. Education is free and compulsory in the British Virgin Islands for children between the ages of 5 and 16 years (see A/AC.109/2008/2). There are public and private primary schools in the Territory on Tortola, Anegada, Virgin Gorda and Jost Van Dyke. Secondary education, "A" level (from 12 to 16 years), is also free. There are high schools, both private and public. The community college at Paraquita Bay, the H. Lavity Stoutt Community College, is a comprehensive community college which offers university-parallel, technical-vocational and adult continuing education programmes.[13]

42. Under the national curriculum project, modernization of the educational system is being carried out. The standards which have been developed by the project for language arts and mathematics are being integrated into the Organization of Eastern Caribbean States curriculum used in the Territory schools. It is expected that introduction into schools of the new format will begin in September 2009.[2]

43. In 2008, the territorial Government announced that the Territory had received approval from UNESCO to fund a literacy intervention programme in the primary schools under the UNESCO Participation Programme. The project will be coordinated by the British Virgin Islands National Commission for UNESCO and the Department of Education. In addition, the territorial Government is in the process of implementing a new policy for the school year 2008/09, commencing with the public primary schools, where pupils in all classes will read silently for at least one hour every day.[14]

44. In addition, the Ministry of Education has upgraded the student information system by introducing the electronic "Power school" system to the schools of the Territory. The system is accessed through the Internet and allows teachers, parents and administrators to track the progress of students, both academically and socially, in terms of truancy, lateness and absenteeism. Students and parents can also track student performance, check their assignments and hold discussions online with teachers. To ensure that the programme works effectively, each teacher is to be given access to a laptop computer.[2]

45. The Department of Youth Affairs and Sports works with sports organizations to improve their capacity in administration, event hosting, fund-raising, international networking and athlete development. Major achievements of the Department are the preparation of a draft sports policy and a youth policy. The

[12] See http://www.photius.com/rankings/economy/unemployment_rate_2007_0.html.
[13] See www.hlscc.edu.vg.
[14] See www.bviplatinum.com.

sports policy is being refined by a sports consultant. In addition, the territorial Government is upgrading all the major recreation grounds in the Territory to ensure that the youth of the Territory have adequate facilities to maintain fitness and stay healthy.[2]

D. Public health

46. The Territory's Health Services Authority, an autonomous corporate body, was established in 2005 when the British Virgin Islands Health Services Act was passed, to manage all public health-care delivery services for the Ministry of Health and Social Development. According to the administering Power, the territorial Government continues to be the major funding source for the Authority. At the same time, the British Virgin Islands Health Services Authority makes every effort to improve its revenue generation and collection, to facilitate a transition from almost total reliance on Government funding towards functioning as an autonomous body with no or limited public funds.[2] In accordance with the 1977 Public Health Act, which is the statutory framework for protecting and promoting the population's health, public health services are provided free at the point of use to certain groups, such as full-time schoolchildren, nursing mothers, the elderly, the mentally ill, health workers, firefighters, the police, prisoners and prison officers.[2]

47. According to the administering Power, the British Virgin Islands has one 44-bed public hospital, Peebles Hospital, and one 8-bed private hospital, the Bougainvillea Clinic. Both are located in Road Town. Peebles Hospital offers general medical services and certain specialist services. Tertiary care services are accessed at institutions in Puerto Rico, other Caribbean islands and the United Kingdom.

48. There is a total of 84 physicians registered to practise in the British Virgin Islands. Of these, 55 are actively practising in the Territory, 35 work in the public sector and 20 work in the private sector. There are 10 dentists registered to practise in the British Virgin Islands, of whom 2 work in the public sector and 8 in the private sector. A total of 162 nurses are registered with the Territory's Nurses, Midwives and Assistant Nurses Council. Of that number, 48 are midwives/registered nurses, 82 are registered nurses and 32 are assistant nurses. The recruitment and retention of health staff remains a significant challenge. There are no training facilities for health-care professionals in the Territory. Instead, nationals are generally trained at regional training institutions, in the United States of America or the United Kingdom.[2]

49. Health-care provisions are constantly upgraded with a focus on the primary health-care approach. Primary care services are delivered through 12 health centre clinics and health posts located on the four most populated islands. The clinics provide a range of services, including maternal and child health clinics, elder care, special chronic disease clinics, treatment of common illnesses, nutritional counselling and school health services.[2]

50. Work commenced on the construction of the new Peebles Hospital in March 2005, and the construction phase is expected to be completed by mid-2009. The new facility will comprise a 151,000 square foot six-storey building with 108 beds, as well as shell space for future development.[2]

51. The Comprehensive Health Sector Emergency Management Plan developed in 2000 is to be revised in 2009, taking into account the lessons learned from annual simulation exercises held to test and update the Plan. In addition, the pandemic influenza preparedness plan is expected to be finalized in 2009.[2]

52. In terms of disease conditions at the end of November 2008, according to the administering Power, 92 HIV/AIDS cases have been reported. Thirty-two persons have died of AIDS. There are 54 persons, known to be living in the British Virgin Islands with HIV/AIDS and receiving antiretroviral therapy. They range in age from 19 to 68 years. Of these persons, 23 are being treated in the Territory and 31 are known to have accessed care overseas. Antiretroviral therapy, although not free of charge, is currently much more accessible and affordable to persons living with HIV/AIDS than it used to be. Chronic non-communicable diseases, mainly diabetes and hypertension, contribute significantly to adult morbidity and mortality.[2]

53. In November 2008, information on the Territory's legislative programme for 2009 indicated that steps would be taken to ratify legislation on pharmacy services to protect the population from counterfeit medicines and malpractice.[4]

E. Crime, security and public safety

54. During the early 2000s, the increased level of crime in the Territory became a matter of concern (see A/AC.109/2008/2). The problem is gradually being addressed by the territorial Government, including with support from the Royal Virgin Islands Police Force. In October 2008, the Governor and the Premier held a joint press conference in which they emphasized the need for a community-based fight against criminality to ensure the safety and security of the community. The media were informed that five police officers from the United Kingdom (out of seven planned), hired to work in specialist areas, had arrived in the Territory. According to the Governor, the officers were to work alongside their local counterparts to help enhance their skills and capabilities in various areas, including crime scene investigation, marine policing, covert operations and murder investigations.[4]

55. According to the media, the British Virgin Islands worked with the Caribbean Financial Action Task Force in 2008, an organization of 30 States of the Caribbean Basin that have agreed to implement common countermeasures to address the problem of criminal money-laundering, demonstrating the Territory's continuing commitment to maintaining an internationally robust legal and regulatory regime for anti-money-laundering and combating the financing of terrorism. The Task Force report issued in December 2008 highlighted the efforts undertaken by the Territory since the last Task Force mutual evaluation of the Territory in 2002 to ensure compliance with established anti-money-laundering/combating the financing of terrorism principles and the Territory's commitment to the establishment of standards in legal, law enforcement, regulatory and international cooperation matters.[15]

56. The Speech from the Throne given on 13 November 2008 before the House of Assembly outlined the territorial Government's legislative programme for 2008/09, indicating that it would focus on strengthening the criminal justice system and enact the Justice Protection Act to increase the willingness of witnesses to testify in

[15] See www.caribbeannetnews.com; www.cfatf.org.

criminal cases. The Police Act 1986 was under review.[4] According to the administering Power, the Parole of Prisoners Bill 2009 was being discussed for presentation to the Cabinet and the House of Assembly for approval.[2]

VI. Environment

57. The British Virgin Islands has acceded to several global multilateral environmental agreements (see A/AC.109/2008/2), including the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, and the Ramsar Wetlands Convention. The Convention on International Trade in Endangered Species of Wild Fauna and Flora has been incorporated into local enabling legislation.

58. During 2008, the British Virgin Islands and the other United Kingdom-administered Territories in the Caribbean worked on a strategy exercise to help reduce the debilitating effects of climate change. Focus areas included climate change impact studies and vulnerability assessments, development of national and sectoral adaptation strategies, and support for public education, outreach and national project management. The exercise was carried out in conjunction with a Caribbean Community (CARICOM) and European Union project elaborating strategies to counter climate change and biodiversity loss.[16] In that context, in August 2008, the British Virgin Islands hosted a climate change training workshop in collaboration with the Caribbean Community Climate Change Centre. The purpose of the climate change vulnerability and capacity assessment methodology workshop was to train a multidisciplinary team from Anguilla, the Cayman Islands, Montserrat, the Turks and Caicos Islands and the British Virgin Islands in assessing the vulnerability of a tourism sector to climate change.[4] In the context of the Overseas Territories Consultative Council meeting held in London on 28 and 29 October 2008, the territorial Government agreed to work together with the United Kingdom to address the potential impact of climate change and to promote sustainable environmental policies with additional support from the Department for the Environment, Food and Rural Affairs of the United Kingdom.[17]

59. In 2008, the British Virgin Islands was represented at the Eighteenth Meeting of the Board of Directors of the Caribbean Disaster Emergency Response Agency convened in Antigua and Barbuda in May 2008.[4]

60. A strong earthquake occurred on 11 October 2008 in the British and United States Virgin Islands and nearby Puerto Rico. The United States Geological Survey said the quake was centred about 70 kilometres (43 miles) north-west of Anegada in the British Virgin Islands and had a magnitude of 6.1 on the Richter scale. Disaster officials in the British Virgin Islands said there were no reports of significant damage or injuries.[18]

[16] See www.reunion2008.eu.

[17] See www.fco.gov.uk.

[18] Associated Press, 11 October 2008.

VII. Relations with international organizations and partners

A. United Nations system

61. The British Virgin Islands has associate membership in the International Labour Organization (ILO), UNESCO and the Economic Commission for Latin America and the Caribbean. The national commission for UNESCO collaborates with UNESCO in the areas of institution- and capacity-building.

62. In the context of the Overseas Territories Consultative Council meeting held in London on 28 and 29 October 2008, the territorial Government agreed upon the target date of October 2009 to achieve the extension of ILO Convention 182 on the worst forms of child labour and of the Convention on the Elimination of All Forms of Discrimination against Women, and to consider the options available to meet international obligations on sexual orientation.[16]

63. On 7 November 2008, the territorial Government signed the United Nations Children's Fund Country Programme Action Plan 2008-2011, which, inter alia, seeks to promote mutual agreement and cooperation for the fulfilment of the United Nations Convention on the Rights of the Child and the Convention for the Elimination of All Forms of Discrimination against Women.[4]

B. Regional organizations and other partners

64. The Territory is an associate member of CARICOM and the Organization of Eastern Caribbean States (OECS). In October 2008, it was reported that the British Virgin Islands would join consultations held by OECS member States on a proposed economic union to be accomplished in 2009.[19] In that connection, it was announced that the OECS secretariat was embarking on several initiatives to develop enhanced support systems for the proposed union. One such initiative is a collaborative undertaking with the ILO Subregional Office for the Caribbean in developing and implementing an OECS labour market information system.[4] The Territory is a borrowing member of the Caribbean Development Bank.

65. The British Virgin Islands is associated with the European Union (EU) but is not a part of it. The Territory is a signatory of agreements that provide for development assistance from EU, on the basis of performance-based partnerships.

66. The question of the continued functioning of the Inter-Virgin Islands Council was addressed during the visit of Governor John P. deJongh of the United States Virgin Islands to the British Virgin Islands in March 2007, when he underscored his commitment to seeing the Council continue to perform its vital role of addressing issues that are of concern to the two Territories.[20] It is expected that a further meeting of the Inter-Virgin Islands Council will be convened in early 2009.

[19] See www.oxan.com, Oxford Analytica.

[20] See http://www.governordejongh.com/news/archive/2007/03/031506-2.html.

VIII. Future status of the Territory

A. Position of the territorial Government

67. The position of the territorial Government regarding the future status of the British Virgin Islands is reflected under section II on constitutional issues.

B. Position of the administering Power

68. In a statement made on 6 October 2008 before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-third session of the General Assembly, the representative of the United Kingdom said, inter alia, that her Government's relationship with its Overseas Territories was based on partnership, shared values and the right of each Territory to determine if it wished to retain its link to the United Kingdom, where applicable. Her Government had no intention of imposing independence against their will.[21]

69. She referred to various constitutional review processes that had been undertaken, aimed at providing a modern constitutional framework to reflect the specific circumstances of each Territory. Provisions relating to good governance, human rights and the roles of the Governor and locally elected politicians had been updated. She stated that her Government's support for the Territories focused on capacity-building and sustainable development, and indicated that the United Kingdom continued to work with the Territories, as appropriate, in areas such as political and economic transparency, security, reduction of vulnerability to natural and non-natural disasters and environmental management.

70. In a paper dated 8 May 2008, sent to the Chair of the Special Committee for circulation at the Pacific regional seminar on decolonization held in Bandung later that month, the United Kingdom similarly set out its position,[22] as based on the 1999 white paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[23] The paper also addressed the status of various constitutional review processes undertaken in the framework of the white paper.

C. Action by the General Assembly

71. On 5 December 2008, the General Assembly adopted without a vote resolutions 63/108 A and B, based on the report of the Special Committee transmitted to the General Assembly[24] and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/63/408). Section IV of resolution 63/108 B concerns the British Virgin Islands. Under that section's operative paragraphs, the General Assembly:

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[21] A/C.4/63/SR.2.

[22] The full statement can be found at: http://www.un.org/depts/dpi/decolonization/regional_seminars_statements_08/united_kingdom.pdf.

[23] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999, by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

[24] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 23* (A/63/23).

"1. *Welcomes* the new Constitution of the British Virgin Islands, which took effect in June 2007, and notes the need expressed by the territorial Government for minor constitutional amendments in the years to come;

"2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

"3. *Welcomes* the efforts made by the Territory to focus its economic base more on local ownership and on professional service industries other than financial services;

"4. *Appreciates* the efforts made to continue the work of the Inter-Virgin Islands Council between the elected Governments of the British Virgin Islands and the United States Virgin Islands to advance cooperation between the two neighbouring Territories."

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the northern South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 km^2. Fakaofo is southernmost; Nukunonu is nearly 50 km north-west; and Atafu is a further 100 km from Nukunonu. Each atoll comprises strips of land no more than 200 m wide and never more than 5 m above sea level. Samoa, 480 km to the south, is the nearest sizeable neighbour and the principal point of contact for Tokelau with the outside world.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, taken on 19 October 2006, recorded a de jure resident population of 1,466. This figure includes all usual residents present in Tokelau on census night (excluding visitors), plus those who usually reside in Tokelau but were overseas temporarily in Government employment or for educational and medical reasons, a frequent occurrence in the Territory. The 2001 census had recorded a population of 1,537, which included all those present in Tokelau on census night as well as those counted in Apia, Samoa. By atoll, the 2006 population was: Atafu, 524; Fakaofo, 483; and Nukunonu, 426. An additional 33, consisting of Tokelauan public servants and their immediate families, were recorded in Apia, where the Tokelau Apia Liaison Office is located. The constraints of atoll life and the limited opportunities there, as well as the right of Tokelauans, as New Zealand citizens, to live in New Zealand (and therefore also Australia), have led many Tokelauans over the past 40 or more years to leave their atolls. In 2006, almost 7,000 people in New Zealand declared themselves to be Tokelauan. Sizeable Tokelauan communities also exist in Australia, American Samoa and Samoa. These communities include both those born on the atolls of Tokelau and a growing percentage of people born outside Tokelau.

3. The New Zealand official with principal responsibility for relations with Tokelau is the Administrator of Tokelau, who is based in Wellington and is appointed by the Minister for Foreign Affairs of New Zealand. In October 2006, David Payton was appointed as Administrator.

II. Constitutional and political developments

4. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10, A/AC.109/2004/8 and A/AC.109/2005/3), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body of Tokelau) to endorse a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue that faced Tokelau in creating a constitutional framework: namely, how to construct a governance and administrative system that suited a self-governing community based on the atoll or village structure and that respected traditional decision-making customs.

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

5. After the 1998 Modern House report, there was a shift in the manner of representation in the General Fono. Before the 2002 elections there had been equal village representation in the General Fono. Since 2002, representation has been proportional to village population. The result of the 2002 elections was that Atafu had eight delegates to the General Fono, Nukunonu six, and Fakaofo seven. There has also been a change in the village election system, from representatives being appointed to the General Fono by the Village Council to a system of election of General Fono delegates on the basis of universal village suffrage. The issue of representation within the General Fono was reviewed again in October 2004, before the 2005 village elections, and decisions were made on a method of appointment of the Chairperson of the General Fono and on the role and responsibilities of the six-person Council of Ongoing Government, which is the executive Government during times when the General Fono is not in session. The Council consists of three Faipule (representative of each village) and three Pulenuku (mayor of each village). The position of Ulu-o-Tokelau, or Head of Government, rotates annually among the three Faipule. In 2008 it was held by the Faipule of Nukunonu, Pio Tuia. The Faipule for Fakaofo, Foua Toloa, will be Ulu-o-Tokelau for 2009.

6. Village elections for Faipule, Pulenuku and General Fono delegates are held in each village in January, every third year. The most recent elections were held from 17 to 19 January 2008. Representation in the General Fono currently stands at: Atafu, seven delegates; Nukunonu, six; and Fakaofo, seven.

7. Discussions on a new framework for the relationship between New Zealand and Tokelau, based on initial studies for a Tokelauan Constitution were held in Wellington in December 2002. Following further consultations, a Principles of Partnership statement was agreed upon between New Zealand and Tokelau and approved at the June 2003 General Fono. The Partnership agreement provided the medium- to long-term context in which work could be carried forward on constitutional and other developments for Tokelau. The document addressed the management of the Partnership, self-determination for Tokelau, Tokelauan language and culture, New Zealand citizenship, shared values, economic and administrative assistance, coordination of services to Tokelau, defence and security, foreign affairs and the Tokelauan community in New Zealand. At the same time, the New Zealand Government approved a support scheme for Tokelau known as the Administrative Assistance Scheme. The essence of the scheme was that all New Zealand Government agencies were formally instructed to consider providing assistance to Tokelau within their spheres of responsibility. Arrangements were made for the Office of the Administrator in Wellington to act as the liaison and coordination point for the scheme.

8. Since July 2004, the three Village Councils have taken full responsibility for all village public services. That decision emanated from the Modern House of Tokelau approach (see para. 4, above), whereby the traditional Council of Elders on each atoll should serve as the foundation for any future governance structure. Under that arrangement, the three Village Councils would delegate authority to the General Fono for activities that needed to be handled at the national level (for further details on the review process of the public services of Tokelau prior to 30 June 2004, see A/AC.109/2005/3). The remaining aspect of the Modern House project, known as Friends of Tokelau (i.e., keeping Tokelauan communities in New Zealand and other interested parties informed of developments) is being handled by the Office of the Council of Ongoing Government of Tokelau and the Office of the Administrator in

Wellington. The Office of the Administrator has been incorporated into a larger Special Relations Unit, which is responsible for New Zealand's relationship with Tokelau (as well as with Niue), and is staffed by officers of both the Ministry of Foreign Affairs and the New Zealand Agency for International Development. Two members of the Tokelau Public Service work in the Office of the Administrator.

9. During meetings held in 2003, the General Fono took a formal decision, with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice to be actively explored with the New Zealand Government". During a visit to Tokelau in August 2004, the New Zealand Prime Minister, Rt. Hon. Helen Clark, welcomed decisions by Tokelau on its future political status and assured Tokelau of the ongoing friendship and support of New Zealand as it moved towards the act of self-determination.

10. In August 2005, the General Fono approved a draft constitution as the basis for the proposed act of self-determination, as well as the text of a draft treaty of free association between Tokelau and New Zealand. In November 2005, the New Zealand Cabinet gave its formal approval. The so-called "referendum package", consisting of the draft treaty and the draft constitution, was to form the basis for the referendum on self-determination. The General Fono decided that an overall majority of two thirds of the valid votes cast would be required for a change to the status of Tokelau. The voting was held sequentially in Apia and on the three atolls from 11 to 15 February 2006 (for a full report on the February 2006 Tokelau referendum and the preparation leading up to the vote, see A/AC.109/2006/20).

11. The result of the referendum showed 60 per cent of registered Tokelauan voters voted in favour of self-government in free association with New Zealand. That percentage, however, was not sufficient to meet the required two-thirds majority. Robert Aisi, Permanent Representative of Papua New Guinea to the United Nations, represented the Special Committee throughout the referendum process. He was accompanied by a representative of the Decolonization Unit of the Department of Political Affairs. Also present from the United Nations to formally monitor the elections were representatives of the Electoral Assistance Division, from both Headquarters and from Fiji, who deemed the election process credible and reflective of the will of the people.

12. Following the referendum, the Council of Ongoing Government and the Government of New Zealand agreed to leave the referendum package on the table for future consideration. In August 2006, the General Fono voted to hold a second referendum on Tokelauan self-determination in late 2007. The proposed constitution and the draft treaty, commonly referred to as the self-determination package, were to be the same and the legal threshold for acceptance of the proposal would remain at a two-thirds majority.

13. The second referendum was held from 20 to 24 October 2007. The result, with 64.4 per cent in favour, was again below the two-thirds threshold for a change of status, and the outcome of the referendum was that the status of Tokelau as a Non-Self-Governing Territory remained unchanged. As was the case with the first referendum, the voting was conducted in the presence of a United Nations monitoring mission, which deemed that the election process was credible and reflected the will of the people. Ambassador Aisi again represented the Special Committee on Decolonization throughout the referendum process, accompanied by a representative of the Decolonization Unit of the Department of Political Affairs.

Representatives of the Electoral Assistance Division formally monitored the elections on behalf of the United Nations (for a full report on the October 2007 Tokelau referendum and the preparation leading up to the vote, see A/AC.109/2007/19).

14. Following the results of the referendum, the General Fono decided to send a letter to the Government of New Zealand requesting that the entire self-determination package (i.e., the draft treaty and draft constitution that had been agreed on and had served as the foundation for the previous ballots) remain on the table. It was also decided that there would be a report from the Council of Ongoing Government, taking into consideration the views of the Government of New Zealand. The advice from the Government of New Zealand via the Administrator of Tokelau was that, on the matter of decolonization, it was for Tokelau to decide how to proceed. Whatever decision the General Fono made, New Zealand would not stand in the way. However, it was suggested that it might be helpful if several years were allowed to elapse before holding another referendum.

15. Immediately following the second referendum, the Council of Ongoing Government also met with the Administrator and the constitutional adviser of Tokelau to discuss the results of the referendum and a possible way forward for Tokelau. The Council of Ongoing Government noted that Tokelau could in the future change the two-thirds majority threshold for the referendum, but should put in place measures to ensure that a threshold was supported by a clear majority in each village to guarantee unity. The Council of Ongoing Government also noted Tokelau's strong commitment to self-determination and its wish to have a constitution, albeit one that did not encompass the free association self-government provisions. The Council directed its legal advisers to make the required amendments to the Constitution and to distribute it to all the villages.

16. With financial support secured from New Zealand in the form of economic support arrangements, the Council considered that Tokelau should focus on implementing various priority projects related to infrastructure, the delivery of core services and shipping. It was also agreed that much work needed to be done to improve and develop the villages and to strengthen the General Fono, the Council of Ongoing Government of Tokelau and the Tokelau Public Service.

17. In May 2008, at the Special Committee regional seminar held in Bandung, Indonesia, statements were made on behalf of the Administrator of Tokelau and on behalf of Tokelau (see section VII below). Tokelau's constitutional and legal adviser, Tony Angelo, also participated in the seminar in an expert capacity. In his presentation to the Committee, he spoke about Tokelau's self-determination process leading up to the two referendums and their outcomes, as well as about how aspects of Tokelau's experience might inform others, despite the specificities of each individual territory.[2]

III. External relations

18. As set out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau as a Non-Self-Governing Territory has insufficient international legal personality to enter into formal international legal obligations as a State in its own

[2] For the full text of Mr. Angelo's statement see: http://www.un.org/Depts/dpi/decolonization/regional_seminars_statements_08/Tony%20Angelo.pdf.

right. New Zealand is responsible for entering into any such obligations on behalf of Tokelau, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation.

19. Tokelau is a member of the Forum Fisheries Agency, the South Pacific Community, the University of the South Pacific and the Pacific Regional Environment Programme. In October 2005, Tokelau was admitted as an Associate Member of the South Pacific Applied Geoscience Commission. Later that month, the Ulu of Tokelau attended the Pacific Islands Forum meeting, where Tokelau was welcomed as an observer. Tokelau is an Associate Member of the World Health Organization (WHO) and of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

20. Apart from its relationship with New Zealand, Samoa constitutes another important bilateral contact for Tokelau. The past year has seen ongoing contacts in many areas of importance to Tokelau. A practical example of growing cooperation is the work being developed to enable Tokelau to ship non-biodegradable waste to Samoa for disposal.

IV. Economic conditions

21. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the *inati* system and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposit at a central location of food and produce, which is then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that addresses the needs of every member of the community, including the elderly, widows, single parents and children.

22. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, its isolation, the geographical dispersion of the atolls, limited and poor natural resources and natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

23. Tokelau has a unique combination of traditional and modern income resource streams. With Government funding, many villagers are paid regularly for various village duties ranging from construction and boat-loading to assistance to the General Fono and other public entities. The devolution of public services to the atolls has also increased the number of wage employees as well as the need for specialized skill development or qualifications. The past few years have seen a rise in small enterprises and in interest in generating cash income. However, artisans prefer to keep handicrafts as a cultural practice rather than use them for commercial gain. Much investment has been made in expanding fisheries commercially over the past decade, but maintaining artisanal fisheries at a subsistence level remains the preferred approach. In addition, lack of reliable transport makes competition with Samoan fisheries, which are closer to markets, virtually impossible.

24. Migration of skilled persons is an ongoing challenge to the sustainability of any endeavour. However, unlike other islands in free association with New Zealand,

namely Niue and the Cook Islands, where numbers have declined steadily, Tokelau has been able to maintain a fairly steady population. Although the recent census did indicate a decrease in numbers, the view of Tokelau's leadership is that most people leave Tokelau only temporarily, mainly for reasons of education; health (hospitals are currently equipped for basic services only); and employment. The coming years will show whether this perception of population retention is justified. What is very clear to both Tokelau and New Zealand is that basic services in the health, education, transport and communications areas must be maintained at levels which allow the inhabitants of the atolls to retain confidence in the quality of life on Tokelau's atolls. To this end, major programmes to upgrade health and education facilities and services are under way, funded by additional resources from New Zealand. A major upgrade of Tokelau's shipping service is also in progress.

A. Economic developments

25. Assistance to Tokelau is provided by New Zealand under the terms of three-year economic support arrangements. The most recent of these was signed by the Minister for Foreign Affairs of New Zealand and the Ulu of Tokelau in December 2007. It covers the period from 1 July 2007 to 30 June 2010 and commits up to $NZ 43.18 million in assistance for Tokelau.[3] Support continues to be provided through contributions to the Tokelau International Trust Fund. The Fund, formally established in November 2004, is designed to provide intergenerational security and an independent source of income to Tokelau in the future. With contributions from Tokelau, New Zealand, Australia and the United Kingdom of Great Britain and Northern Ireland, the Fund now stands at approximately $NZ 52 million.

26. Tokelau's overall budget for the period 2008-2009 is set at $NZ 14.5 million. The full budget is now under Tokelau's control (previously it controlled the budgetary support element but not the project assistance funds), with New Zealand remaining the primary source of economic support. By 2009-2010, overall assistance to Tokelau is projected to increase to $NZ 15.3 million.

27. Throughout 2008, discussion continued within Tokelau and with New Zealand on appropriate and achievable goals and objectives in the area of economic development. In recognition of the fact that accomplishments in this key sector in recent years have been modest at best, both Tokelau and New Zealand have reaffirmed their commitment to identifying activities and projects that can be viably established and maintained.

28. The United Nations/Council of Regional Organizations in the Pacific Integrated Strategic Plan for Tokelau 2008-2010 was developed by the Government of Tokelau, United Nations agencies and five Council agencies in response to Tokelau's request for harmonized donor assistance.[4] The Integrated Strategic Plan, along with the Pacific Subregional United Nations Development Assistance Framework for 2008-2012, serving 14 Pacific island countries,[5] provides the overarching guidance for the

[3] As at 31 December 2008, the New Zealand dollar was equivalent to 0.58 United States dollars.

[4] The five CROP agencies are: the Secretariat of the Pacific Community, the Secretariat of the Pacific Regional Environment Programme, the South Pacific Applied Geoscience Commission, the University of the South Pacific and the South Pacific Board for Educational Assessment.

[5] Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

Country Programme Action Plan for 2008-2012 signed by Tokelau and the United Nations Development Programme (UNDP) in 2008.

29. The Tokelau/UNDP Country Programme Action Plan focuses on equitable economic growth and poverty reduction, good governance and human rights, crisis prevention and recovery and sustainable environmental management, with gender equality as a cross-cutting theme. In support of its national development planning, Tokelau participated in a Millennium Development Goals planning and budgeting workshop for Polynesian countries, organized by UNDP in May 2008 in the Cook Islands. A national strategic planner is being recruited by UNDP to support Tokelau with Millennium Development Goal achievement, costing, implementation, and mainstreaming of the Millennium Development Goals (particularly gender) into its national development plan. The first Millennium Development Goal report for Tokelau will be prepared for submission to the General Assembly in 2010.

30. UNDP support will continue for capacity development through a subregional South-South cooperation and capacity development programme, which will disseminate development lessons and best practices within the subregion, encourage community-to-community learning, develop results-based management capacity and promote communications and leadership, including leadership training for youth. Institutional mechanisms and capacities will also be strengthened for an effective disaster response capacity.

31. Practical options will be developed for population retention, income generation and sustainable livelihoods through a new subregional community-centred sustainable development programme. The programme aims to encourage the development of community visions and development plans for the period 2009-2015, in line with achievement of the Millennium Development Goals. Community-based initiatives will be supported and scaled up through gender-sensitive local-level planning, particularly for environmental management, disaster risk reduction, climate change adaptation and sustainable livelihoods, including eco-cultural tourism, food security, energy efficiency and renewable energy use. According to UNDP, community capacity development and volunteerism will guide the strategic focus of the programme. Although partnerships and resources will be mobilized for community-centred development, from the viewpoint of sustainability, the intention is for the community plans to be eventually funded through community resources and from national and local budgets. The scheduled activities of the programme began in January 2009, with a subregional training programme in community mobilization and planning methodologies, held in Savaii, Samoa. A mix of Government, civil society, United Nations and community representatives, including one from each Tokelauan atoll, participated

32. The programme is also an attempt to replicate and enhance the success of the Global Environment Facility Small Grants Programme. UNDP will therefore continue to support the participation of Tokelau in the Global Environment Facility Small Grants Programme through the New Zealand Agency for International Development Pacific Environment Fund. Climate change adaptation will be a key focus, given the extreme vulnerability of the atolls to climate variability, climate change and weather-related events.

33. All the initiatives will be implemented under the leadership of the Government of Tokelau and in close partnership with United Nations agencies through the United Nations Development Assistance Framework and with the Council of Regional Organizations in the Pacific agencies through the United Nations/Council of

Regional Organizations in the Pacific Integrated Strategic Plan for Tokelau (see para. 28, above).

34. In 2007, UNDP provided US$ 205,000 for the sea wall project under a national execution modality, wherein each atoll was allocated funds from the total amount for strengthening their sea walls. At the end of 2007, upgrading of the sea wall surrounding the main residential islet of Fale, Fakaofo, was completed. Assistance is now being sought for similar protection for the second residential islet (Fenuafala), where the school and hospital are located. Work continues in Atafu and Nukunonu, in the most vulnerable areas of the two villages. The slower progress on Atafu and Nukunonu is primarily due to slow delivery of gabion baskets from overseas and the fact that most of the workforce is working on village housing and sanitation programmes, on ongoing maintenance work and on the infrastructural projects to upgrade the school in Atafu and the hospital in Nukunonu.

B. Public services

35. No further developments were reported during the review period (see A/AC.109/2005/3, paras. 32-34).

C. Transport and communications

36. Tokelau has no airstrips and its main transportation option is that provided by a single vessel, the *MV Tokelau*, a ship with limited cargo and passenger capacity that provides service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest obstacles to economic and social development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. Since 2003, New Zealand has funded additional visits by larger vessels under charter from the Samoa Shipping Corporation Ltd. Recognizing that the quality of the shipping service linking Tokelau's atolls and providing contact with Samoa lies at the heart of its ongoing viability, New Zealand, as the administering Power, has committed itself to a major review and upgrade of that service. In late 2008, it was announced that further progress had been made in providing Tokelau and its people with a quality, dedicated 25-year shipping service, which would become active in 2010 (see sect. VII.A, below). Work on required improvements to the wharfage facilities at each atoll is also progressing.

37. The ongoing development of Tokelau's infrastructure and maintenance of existing facilities is a major facet of Tokelau/New Zealand relations. Decisions on the prioritization of projects rests with the Government of Tokelau, both at the level of the public service and the village councils. It is worth noting that, in setting priorities for infrastructure development on an atoll-by-atoll basis, no request has been made to date by any of the atoll councils for the construction of an airstrip. Upgrading of schools and hospitals has been accorded the highest priority on each atoll for the current programme cycle.

38. For more than a decade, large investments have been made to facilitate contacts for Tokelauans inter-atoll as well as with the outside world. The Telecommunications Tokelau Corporation, a $NZ 4 million international telecommunication service, was

established in 1997. Tokelau also has a website (www.dot.tk), which became operational in January 2002 and which offers both free and paid domain names. The website is the result of a commercial licensing agreement between the Corporation and a private company, Taloha Inc. It is seen as having the potential to provide some revenue to the Territory without any capital outlay by the Corporation.[6] Pursuant to a request from the atolls, the Corporation is hoping to install new equipment in the atolls in 2009 to boost telecommunication services in the villages and to assist in creating Internet-based long-distance education opportunities.

39. In February 2002, FM radio stations were inaugurated on each of the atolls with funding from New Zealand. Although they currently operate independently, plans are being considered for linking them at least once a week for a national programme. This is being considered under a media development project funded by UNESCO. The radio stations are seen as an excellent means of maintaining the Territory's cultural heritage, as well as facilitating communication and transparency on community and decision-making matters, since they broadcast meetings of the Council of Elders on each atoll.

40. In 2004, UNDP funded a comprehensive review of telecommunications and stimulated a number of reforms in the Telecommunications Tokelau Corporation and in the integration of Internet facilities and services. A Tokelau law website, www.tokelaulaw.tk funded by the UNDP thematic trust fund for democratic governance and aimed at making the Constitution and all Tokelauan legislation accessible to the Tokelauan population, was developed in 2005 and launched in February 2006. The Government of Tokelau has employed a communications officer who will be responsible for updating the laws and constitutional documents displayed on the website.

D. Power supply

41. In 2001, work was begun on a diesel-powered electricity system in all three atolls, under the auspices of the New Zealand Agency for International Development. The work was completed in 2008 at a cost of some $NZ 3 million. The effort to reach Tokelau's goal of being completely provisioned by renewable energy sources is ongoing and is supported by a pilot photovoltaic energy grid project funded by UNDP and contributions from the Government of France. The project, covering 15 households on Fakaofo, will be expanded, upon securing available funding, to complete atoll coverage, thereby significantly reducing reliance on fossil fuels. Steady increases in the cost of imported fossil fuels and protection of Tokelau's fragile environment underscore the importance to Tokelau of a significant shift to renewable energy sources, as well as the vital need for increased awareness within the atoll communities of energy conservation and efficiency.

[6] Press release, "History in the making" (February 2002), and the information transmitted by the Administrator of Tokelau.

V. Social conditions

A. Education

42. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the University's educational telecommunications system through a satellite established in Atafu. Despite significant and increasing levels of funding for education over many years, education standards on the atolls remain relatively low. This is a key reason why significant numbers of families leave the atolls to seek improved educational opportunities for their children in Samoa, New Zealand and elsewhere. Both Tokelau and New Zealand recognize that the situation needs to be robustly addressed, while also acknowledging that educational and career aspirations will always be a key factor in the departure of some segments of the atoll populations. According to the administering Power, a major infrastructure renewal programme is well under way in Tokelau, whereby, as a first stage, Atafu and Fakaofo are getting new schools (see sect. VII.A, below). Efforts have also been devoted to curriculum development, training of principals and senior staff and the extension of secondary schooling in 2008 to cover year 12, with a further extension to year 13 in 2009. Tokelau is also working closely with the Secretariat of the Pacific Community to explore better Internet access.

B. Health

43. The provision of adequate health services to the populations of three dispersed atolls connected to the wider world by sea transport will always be one of the most important challenges for Tokelau. The major non-local sources of contributions to health care are the Government of New Zealand, WHO, the United Nations Children's Fund, the United Nations Population Fund and UNDP, as well as the Government of Australia and the Secretariat of the Pacific Community. The national health plan's priorities are: (a) healthy islands and communities; (b) healthy lifestyles; (c) development of health partnerships; (d) development of accessible primary health-care services; (e) successful community participation; and (f) development and improvement of the health-service system.

44. Each of Tokelau's atolls has a basic hospital, staffed and equipped to deliver core medical care and related services. Ensuring that each is adequately staffed and supported by necessary equipment and supplies is a challenge. Considerable attention and funding is devoted to this core area of Tokelau's needs. As part of a major infrastructure renewal programme, Nukunonu is in the process of having its hospital substantially improved (see sect. VII.A, below).

45. The overall result in terms of delivery of quality health services for the people of the atolls has been mixed. Discussions are taking place between the leaders of Tokelau and the administering Power about the level and quality of health services required on each atoll and the most appropriate means of ensuring that these are provided. Ensuring that the people of Tokelau are well served in this crucial area will be a major element of both Tokelau's and New Zealand's efforts during the coming years.

46. WHO has focused its support on four priority health areas, acting with a total budget allocation of US$ 107,000 for the period 2006-2007, and US$ 120,000 for the period 2008-2009. The four priority areas are:

(a) Epidemic alert and response;

(b) Human resources for health (such as the training of doctors, dentists and nurses);

(c) Prevention and control of non-communicable diseases;

(d) Tobacco control.

47. The need for these health education programmes has grown as a result of changes in lifestyle and an increase in non-communicable diseases in Tokelau. Other support provided by WHO relates to outbreak disease preparedness, the procurement of needed medical supplies and equipment and the provision of expert health-related technical assistance, as required.

48. WHO notes that, although the general health status of Tokelauans is reasonably good, changes have been observed over the years. The mortality rate from non-communicable diseases has increased from 31 per cent in 1981 to almost 38 per cent in 2003. High blood pressure readings are seen in 36 per cent of women and 23 per cent of men 30 years of age and above. High blood sugar levels for the same age group are seen in 18 per cent of men and 28 per cent of women. Tobacco and alcohol consumption are relatively high among the adult population, especially in males. Obesity is widespread, with a prevalence of 70 per cent for men and 83 per cent for women 30 to 39 years of age and is attributed to diet and physical inactivity.[7]

C. Status of women

49. The Tokelau/UNDP Country Programme Action Plan for 2008-2012 has committed to incorporating gender equality as a cross-cutting theme in its areas of focus, including equitable economic growth and poverty reduction, good governance and human rights, crisis prevention and recovery and sustainable environmental management (see para. 29, above). UNDP continues to follow up and provide support to the Tokelau national gender strategy it helped to develop in 2007.

VI. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

50. In August 2002, a mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples visited Tokelau and New Zealand. It was the fifth such visiting mission since 1976.[8] In October 2004, the Chairperson of the Special

[7] Information provided by WHO Samoa office.

[8] For further details, see the report of the mission (A/AC.109/2002/31).

Committee attended the special constitutional workshop held at Atafu, pursuant to the invitation extended by the Ulu of Tokelau earlier in the year.

51. In February 2006 and October 2007, at the invitation of the Government of New Zealand and the people of Tokelau, the former Chairperson of the Special Committee, Robert Aisi, Permanent Representative of Papua New Guinea to the United Nations, together with a representative of the Decolonization Unit of the Department of Political Affairs, attended the Tokelau referendums, as described in paragraphs 11 to 13, above. The UNDP Assistant Resident Representative for Governance and Poverty Reduction also accompanied the United Nations Team to Tokelau. In May 2008, the Special Committee held a Pacific regional seminar in Bandung, Indonesia, at which Tokelau was discussed (see para. 17, above).

52. In June 2008, the Ulu-o-Tokelau, Pio Tuia, and the Administrator, David Payton, participated in the session of the Special Committee at Headquarters in New York (see para. 59, below).

53. The Special Committee considered the question of Tokelau at its 11th meeting, on 23 June 2008 (see A/AC.109/2008/SR.11). Statements were made at that meeting by the Administrator of Tokelau and the Ulu-o-Tokelau. The representative of Papua New Guinea, on behalf of Fiji and Papua New Guinea introduced a draft resolution entitled "Question of Tokelau".[9] The Committee adopted the draft resolution without a vote.

B. Special Political and Decolonization Committee (Fourth Committee)

54. At its 2nd meeting, on 6 October 2008, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard statements by the Rapporteur and the Chair of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which they referred to developments in 2008 regarding Tokelau (see A/C.4/63/SR.2). In their statements they commended the Government of New Zealand for its exemplary cooperation with the Special Committee. The Republic of the Congo also took the floor, pointing to the cooperation between Tokelau and New Zealand as an excellent example that could provide guidance to other administering Powers in the international dialogue established by the United Nations on the political and constitutional development of the Territories under their administration.

55. At its 6th meeting, on 10 October 2008, the Fourth Committee heard a statement by the Permanent Representative of Papua New Guinea who commended New Zealand's work with Tokelau, which served as a model for other administering Powers. He urged Member States, United Nations agencies and other international and regional agencies to contribute to the Tokelau International Trust Fund to support the future development needs in Tokelau. He also called on administering Powers to enhance their cooperation with the Committee and to seek to achieve progress in implementing the action plan of the Second International Decade for the Eradication of Colonialism. At its 7th meeting, on 13 October 2008, the Committee adopted draft resolution V entitled "Question of Tokelau",[9] without a vote.

[9] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 23* (A/63/23, chap. XII, draft resolution V).

C. Action taken by the General Assembly

56. At its 64th meeting, on 5 December 2008, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 63/107, on the question of Tokelau, without a vote. At the same meeting, it also adopted resolution 63/110, on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 6 of which refers to Tokelau.

VII. Future status of the Territory

A. Position of the administering Power

57. As the administering Power for Tokelau, New Zealand has maintained a strong and consistent commitment both to the aspirations of the people of Tokelau and to the principle of self-determination. It has consistently supported Tokelau's aspirations to exercise its right to self-determination. In two referendums on the issue of self-determination, New Zealand has provided all appropriate support for Tokelau's efforts to determine the will of its people for a possible change of status. Successive Administrators and representatives of New Zealand to the United Nations have placed on record before the Special Committee and the Special Political and Decolonization Committee (Fourth Committee) full information about New Zealand's support for Tokelau on this issue. This attitude towards the needs and aspirations of the people of Tokelau has been favourably acknowledged by those Committees on many occasions.

58. The outcomes of the referendums in February 2006 and October 2007, neither of which reached the threshold of support set by Tokelau's General Fono for a change of status, have been acknowledged and accepted by New Zealand. As a follow-up to the 2007 referendum result, the Prime Minister of New Zealand met with Tokelau's leaders in February 2008, to discuss the next steps in the New Zealand-Tokelau relationship. During the visit to Wellington, it was agreed that a "pause" should be taken in Tokelau's self-determination efforts. It was also agreed that a significant period should be spent focusing on Tokelau's basic needs. Agreement was reached on a multi-million-dollar infrastructure programme.

59. The approval of the three-year economic support arrangements for Tokelau (see para. 25, above) from July 2007 to June 2010 has given Tokelau substantially increased levels of financial support and has also provided Tokelau's people with clear evidence of New Zealand's enduring commitment to their well-being and needs. According to the Administrator of Tokelau, David Payton, during the meeting of the Special Committee on 23 June 2008, on the basis of planning already agreed before the 2007 referendum, a major infrastructure renewal programme was well under way in Tokelau. As a first stage, Atafu and Fakaofo were getting new schools and Nukunonu was having its hospital substantially improved. Major progress was also being achieved in the improvement of Tokelau's shipping service. Increased efforts were also being directed at strengthening the ability of its public services to support more comprehensively the needs of each atoll's population. The Administrator once again noted that, regardless of the outcome of the 2007 referendum, New Zealand's support for Tokelau remained substantial and assured (see A/AC.109/2008/SR.11).

60. Speaking before the Special Political and Decolonization Committee (Fourth Committee) at its 6th meeting, on 10 October 2008, the representative of New Zealand expressed appreciation for the Committee's consideration of the question of Tokelau, noting that nearly a year had passed since the people of that Territory had voted in a United Nations-supervised self-determination referendum (see A/C.4/63/SR.6). For a second time, the very small territorial electorate had failed to deliver sufficient support to reach the threshold they themselves had set for a change of status to free association with New Zealand. In the aftermath of the votes, Tokelau's leaders had decided to focus their efforts more on enhancing the core services on their atolls, rather than moving quickly to a third referendum, and New Zealand had signalled its full understanding of that approach. New Zealand and Tokelau were working on a major infrastructure programme that would renew the school of Atafu and Fakaofo and upgrade Nukunonu's hospital, thereby putting real substance behind the commitment to Tokelau and its people.

61. The representative said that improved education and health-service facilities were important, yet nothing was more important to the people of the remote atolls in Tokelau than a safe and reliable shipping service. Tokelau, for years, had had to rely on an adequate, but far from ideal, shipping link to connect it with its nearest neighbour, Samoa. The days of uncertainty would end when a new purpose-built vessel would come into service in 2010.

62. The representative stated that while the right to self-determination was fundamental and deserved full support, it was insufficient on its own. It had to be accompanied by opportunities for the development of the full needs of the peoples who sought to exercise that right. The New Zealand representative said that her country was committed to providing those opportunities for the people of Tokelau.

B. Position of the people of Tokelau

63. At the 11th meeting of the Special Committee, on 23 June 2008, the Ulu-o-Tokelau, Faipule Pio Tuia, said that the General Fono had agreed that Tokelau needed a period of reflection and that, with the "exemplary cooperation" of New Zealand, it intended to build a Tokelau that all Tokelauans would like to live in and be proud of, focusing on priority areas such as village development, health, education, transport and capacity-building (see A/AC.109/2008/SR.11). The Government had identified infrastructural needs to develop an efficient and a reliable level of service that would benefit the Tokelauan people. He appealed to the international community to help the Territory address the issues of global warming, climate change and rising sea levels. He stressed that Tokelau would not rest on that issue of self-government following the two referendum attempts. He said that, as a Tokelauan, he found it hard to close his eyes at night knowing that a decision of his elders on the future of Tokelau was still pending. The Ulu spoke of the close cooperation between Tokelau and its administering Power, New Zealand, not least in the area of economic support. He stated that the Tokelau International Trust Fund at that point stood at approximately NZ$ 35 million, noting that the Government of New Zealand had given an additional NZ$ 5 million at the end of 2007 and a further NZ$ 15 million at the end of 2008 (see A/AC.109/2008/SR.11).